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STATE OF MICHIGAN

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BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

JUN 19 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the matter of the application of
CITY SIGNAL, INC., for an order establishing
and approving interconnection arrangements
with AMERITECH MICHIGAN.

Case No. U-10647

At the February 23, 1995 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. Ronald E. Russell, Commissioner
Hon. John L. O'Donnell, Commissioner

OPINION AND ORDER

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HISTORY OF PROCEEDINGS

In its October 12, 1994 order in Case No. U-10555, the Commission granted City Signal, Inc., a license to provide basic local exchange service in the Grand Rapids District Exchange, pursuant to Section 302(1) of the Michigan Telecommunications Act, 1991 PA 179 (Act 179), MCL 484.2101 et seq. In doing so, the Commission found that City Signal possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service to every person within the geographic area of the license. The Commission also found that the granting of a license to City Signal would not be contrary to the public interest.

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The record also demonstrates that the proposed rates do, in fact, include a contribution to overheads in addition to a return on investment. In any event, as AT&T correctly points out, it is unlikely that, during the transitional period, City Signal will need a large number of loops to serve the customers it acquires in the Grand Rapids area. As a result, any positive or negative effect resulting from the prices will be limited. Moreover, Ameritech Michigan's development of its TSLRIC cost study, as required by the September 8, 1994 order in Case No. U-10620, will make it possible to address this issue more fully in a generic proceeding.

The Commission further finds that the \$8 and \$11 rates are based on total company costs. Consequently, if Ameritech Michigan assesses a federal EUCL charge for the unbundled loop, that charge should offset the \$8 and \$11 rates. Not allowing for an offset of any interstate recovery through the EUCL charge would result in a double recovery of interstate costs.

Based on the foregoing discussion, the Commission finds that City Signal's proposed pricing is reasonable on a transitional basis and, therefore, it should be adopted. In contrast, the Commission agrees with the ALJ's conclusion that Ameritech Michigan's criticism of the Staff's analysis is disingenuous because it did not offer its own analysis, despite the fact that it had the opportunity to do so. Although Ameritech Michigan explains that it did not make a presentation because it does not propose to offer unbundled loops, the company could have presented testimony on this issue and chose not to do so.

Local Number Portability

Local number portability is the ability of a customer to change basic local exchange service providers while retaining his or her local telephone number, i.e., the local telephone number is "portable" between carriers. City Signal contended that local number portability is critical to an emerging competitive basic local exchange market, because customers will be reluctant

to change LECs if they have to change their telephone numbers. However, the ability to keep an existing local telephone number when transferring to another provider does not exist today as it does for 800 prefix numbers. City Signal therefore requested that the Commission require Ameritech Michigan to provide an interim solution to number portability through any technically feasible means and to develop a long-range solution such as a data base solution using Signalling System 7 (SS7) technology.²²

As an interim solution, City Signal proposed to use two services currently offered by Ameritech Michigan—Direct Inward Dialing (DID) and Remote Call Forwarding (RCF). DID provides an alternative number portability solution for large customers or larger groups of telephone numbers. Using DID, a call comes into an Ameritech Michigan central office and is directed to a dedicated DID one-way trunk that transports the call to its final destination, which could be a City Signal central office. RCF enables a customer to remotely forward a call from one central office to another central office. City Signal further proposed that it would also provide number portability in situations in which it assigns the initial number and the customer changes its local exchange service provider.

DID and RCF were not designed to be used as number portability options and, consequently, most of the parties argued that they are fundamentally inadequate solutions on a long-term basis. Nevertheless, none of the parties objected to the use of DID and RCF to effect number portability on an interim basis. MCI, however, recommended that the Commission establish a deadline of one year for Ameritech Michigan to develop a long-term number portability solution.

²²SS7 is a network signalling system, which accommodates enhanced 800 service, wide-area Centrex services, virtual private networks, and other types of advanced telecommunications services.

The remaining issue in dispute relates to the appropriate price for DID and RCF services. City Signal proposed that, as an interim measure, the Commission require that number portability be provided without charge for policy reasons similar to those adopted in other states. More specifically, City Signal and MCI recommended that the Commission adopt a solution similar to that proposed by Rochester Telephone Company before the New York Public Service Commission. That commission allowed the additional switching and transport costs associated with the provision of number portability through DID or RCF to be recovered through a surcharge on telephone numbers, payable by each local exchange service provider based on the number of telephone numbers served by each carrier. (Case 94-C-0095, February 10, 1994.) MCI argued that this approach is premised on the assumption that there is an economic value to having number portability, whether or not a particular customer uses it.

Because cost information regarding DID and RCF was not initially available, the Staff recommended that Ameritech Michigan make those services available to City Signal at equivalent present rates during the transitional period. For DID service, based on Exhibit I-83 and City Signal's and MCI's briefs, this would equate to a rate of between \$.58 and \$.83 per telephone number per month.

The Staff further proposed that, for termination of a ported DID toll call to a City Signal end-user, Ameritech Michigan would only be able to bill an IXC for the tandem switching rate if it is applicable. On the other hand, City Signal would charge an IXC the local switching and end-office charges. According to the Staff, this will ensure that each LEC receives the appropriate portion of switched access charges with no double billing of IXCs.

For the completion of local calls using DID or RCF, the Staff also proposed that Ameritech Michigan continue to pay City Signal the \$.05 local call termination charge for calls terminated on City Signal's network. In other words, the Staff explained, termination charges should continue to apply even in situations in which DID or RCF is used by City Signal, thereby acting as an offset to DID and RCF charges.

MCI asserted that, if there are to be charges for the provision of DID and RCF, they should be set to recover Ameritech Michigan's incremental costs. Based on Ameritech Michigan's responses to MCI's discovery requests, MCI calculated the incremental costs for using DID and RCF to be approximately \$.20 and \$1.14 per month, respectively.

Ameritech Michigan, on the other hand, contended that these services should not be offered at cost. According to Ameritech Michigan, it would be inappropriate to provide these services to City Signal at incremental cost while other customers must purchase them at tariffed rates. Ameritech Michigan witness William DeFrance, Director of Components and Interconnection for Ameritech's Information Industry Services, testified that DID is currently offered at a rate for purchasing blocks of 20 telephone numbers. However, he indicated that Ameritech Michigan would be willing to offer a per telephone number rate, which he estimated would be \$1.50 per telephone number per month. As to RCF, Mr. DeFrance stated that the charge associated with that service is \$20.45 per line per month, plus \$.082 per call.

Ameritech Michigan also took issue with the calculation of the incremental cost of DID and RCF. Ameritech Michigan stated that DID was developed prior to the emergence of the number portability issue and, consequently, no costs have been developed to provide DID as a number portability solution. Furthermore, Ameritech Michigan submitted that there are a number of deficiencies in the calculations performed by City Signal and MCI. Ameritech

Michigan presented similar arguments relative to RCF and pointed out that the Commission's December 22, 1992 order in Case No. U-10064 found RCF to be an unregulated service. As to the recovery of costs, Ameritech Michigan argued that cost causers should pay for the price of a ported number. The company asserted that any other arrangement would create subsidies from the customers of one provider to the customers of another provider.

Ameritech Michigan also took the position that it would be irresponsible to mandate that a data base number portability solution be developed within one year from the Commission order as suggested by MCL. Ameritech Michigan stated that no evidence was produced to support such a schedule. Rather, Ameritech Michigan pointed out, evidence showed that Ameritech Michigan and AT&T have been working with the industry to develop an appropriate solution. Consequently, Ameritech Michigan submitted, it would be improper to assess a penalty against it because the industry has not as yet developed a true number portability solution. Finally, Ameritech Michigan contended that the Rochester Telephone Company case provides a poor cost model for this proceeding. According to Ameritech Michigan, that case was predicated on a settlement of overearnings involving a comprehensive agreement between Rochester Telephone Company and Time Warner, Inc., encompassing issues that are not comparable to the matters presented in this case.

GTE argued that number portability should not be required until the demand for it is clearly established. GTE also contended that the cost for number portability should be borne by those who want it, because it would be unfair to require providers and customers that have no demand for number portability to subsidize those who want that option.

MECA took the position that number portability is a national issue that must first be resolved at the federal level. MECA therefore recommended that the Commission defer this issue to the FCC.

The ALJ noted that all of the parties recognized that DID and RCF are the only currently available solutions to number portability and that, while they have some limitations, they may be used on an interim basis. The ALJ acknowledged that these services were not originally established to provide a number portability solution. However, he found that they will provide an adequate solution on a transitional basis. The ALJ further found that these services should not be provided to interconnecting carriers free of charge. He was also not satisfied that the Rochester Telephone Company settlement should be used as precedent in this case, because no details regarding the circumstances giving rise to the settlement and the agreement itself were presented.

Although the ALJ agreed with the Staff that Ameritech Michigan should make DID and RCF available to City Signal at equivalent existing rates, he found that MCT's calculation of the incremental costs for those services was reasonable. He concluded that the cross-examination relied on for those calculations supported the conclusion that they did, in fact, represent the incremental cost of the services. The ALJ also found that the Staff's proposal to prevent the double billing of DXCs for calls terminated under these interim solutions is satisfactory and, therefore, he recommended that it be adopted.

Finally, the ALJ was not persuaded that a time limit should be placed on Ameritech Michigan for the development of true number portability. He noted that the record demonstrated that Ameritech Michigan, along with the industry, is working toward development of a technically feasible number portability solution, and no evidence to the

contrary was presented. The ALJ therefore concluded that MCI's proposed deadline was not justified and should be rejected.

MCI excepts to the ALJ's rejection of its proposed deadline for Ameritech Michigan to provide true number portability. According to MCI, without direction from the Commission, Ameritech Michigan will not willingly implement true number portability because it wants to keep its competitive advantages as long as possible. MCI contends that, based on past experience with Ameritech Michigan, the Commission should require Ameritech Michigan to develop a true number portability solution within one year of the Commission's order in this case.

MCI also argues that, until true number portability is implemented, the ALJ should have increased the compensation threshold to plus or minus 50%.¹⁹ MCI points out that it proposed that threshold to recognize the need to provide incentives for Ameritech Michigan to provide true number portability. Additionally, MCI submits, until true number portability is available, it is possible that traffic flows between Ameritech Michigan and a new entrant will be unbalanced in favor of Ameritech Michigan.

MCI goes on to argue that the ALJ also erred in rejecting the approach used by the New York Public Service Commission in the Rochester Telephone Company case. Contrary to the ALJ's finding, MCI asserts, the record is replete with references to the circumstances giving rise to the settlement agreement and the terms of the agreement itself.

On the other hand, Ameritech Michigan argues that the ALJ erred in his recommendation regarding the pricing of both DID and RCF when those services are used for number portability. In particular, Ameritech Michigan states that no cost witness presented testimony

¹⁹This is the same issue that was addressed in the section on mutual compensation.

addressing the cost of DID service when it is used as a number portability option. Ameritech Michigan submits that the Commission should focus on the policy issues related to appropriate pricing of existing services when used as an interim number portability option. Specifically, Ameritech Michigan continues, the Commission should clarify the ALJ's vague recommendation to charge "equivalent present rates" for DID with a determination that, when used as a number portability solution, DID should be priced at a level that is equivalent to the pro rata share of its current rate that represents the DID components used to provide number portability service. Ameritech Michigan also submits that the Commission should refrain from establishing a discrete price for RCF as a number portability option because no evidence was presented regarding the cost of that service when it is used for that purpose. Ameritech Michigan concludes that compelled production of a 1988 cost study, which is the most recent version of RCF costs, and MCI's faulty calculation do not provide support for the establishment of any rate.

Moreover, Ameritech Michigan continues, the Commission has no authority to require it to modify the prices it charges for RCF services because, in its December 22, 1992 order in Case No. U-10064, the Commission determined that RCF is an unregulated service.

MCI responds that its incremental cost calculations are the most accurate cost studies of DID and RCF that exist today. MCI points out that, like its position on compensation for traffic termination, Ameritech Michigan has failed to offer any contrary cost evidence or analysis on the record. Consequently, MCI argues that the ALJ properly rejected Ameritech Michigan's proposal to price DID at its pro rata share of all components used to provide the end-user service, including contribution levels in line with comparable services. According to MCI, it would be fundamentally anti-competitive to price what is a bottleneck service, but

competitively essential, for competitive LECs in the same manner that Ameritech Michigan prices optional end-user basic local exchange services.

Ameritech Michigan also excepts to the ALJ's adoption of the Staff's proposal limiting the company to the assessment of a tandem switch charge for calls terminating from an IXC to a ported number. Ameritech Michigan argues that it should be allowed to continue to charge IXCs all terminating access rates as well as to receive payment from City Signal for DID and RCF. In support of its position, Ameritech Michigan argues that when DID and RCF are used, it continues to incur all of the access costs it would have incurred if the number was retained for its own customer. Specifically, Ameritech Michigan submits, it continues to incur tandem switching, local switching transport, carrier common line, and all other access costs. In contrast, Ameritech Michigan claims that competitive LECs do not incur any access costs in terminating an IXC call to a competitive LEC end-office through RCF or DID number portability arrangements. Ameritech Michigan concludes that the ALJ's recommendation is nothing more than an attempt by MCI, which made this argument, to inappropriately reduce the access charges it pays to Ameritech Michigan and to provide an advantage to a competing LEC.

MCI responds that this is completely erroneous. To the contrary, MCI submits, the competitive LEC incurs all costs of access in terminating an IXC-originated call, just as it would if the IXC could send the call directly to a NXX code resident in the competitive LEC's end-office switch. In other words, it switches the call, transports it, and terminates it to the end-user over a common line facility. Furthermore, MCI maintains that Ameritech Michigan does not incur anything approaching all the costs it claims. For example, MCI points out, Ameritech Michigan does not incur carrier common line expenses because a ported call never

is switched to a local loop by the incumbent LEC. Finally, MCI argues that Ameritech Michigan is compensated for its switching functions associated with DID and RCF because it will receive the incremental costs built into the rates for those services.

AT&T agrees with MCI that Ameritech Michigan's interpretation of this issue should be rejected because it would allow Ameritech Michigan to double recover some expenses and to earn revenues when no costs are actually incurred. AT&T asserts that the ALJ correctly sought to prevent an IXC from being billed access twice when its call is ported between local carriers to achieve interim number portability. According to AT&T, IXCs should not be double-billed for access functions. Instead, AT&T submits, when numbers are ported between local carriers, Ameritech Michigan will be expected to recover some of its costs in the price it charges the new carrier for DID or RCF.

The Commission finds that the ALJ properly analyzed this issue. Given the consensus that DID and RCF are the only currently available solutions to number portability, the Commission finds that they are appropriate only on an interim basis. However, at this time, the Commission is not persuaded that a deadline should be imposed on Ameritech Michigan to develop a long-term solution. Because this is an issue that the entire industry is addressing, it is not appropriate to single out Ameritech Michigan by imposing a deadline or a penalty at this time.

Turning to the rates for DID and RCF, there appears to be some confusion among the parties regarding the ALJ's finding on this issue. To clarify, the ALJ ultimately concluded that MCI's calculation of the incremental costs of providing DID and RCF, rather than the current tariffed rates, was reasonable. The Commission finds that this conclusion is supported by the record. Cross-examination of Mr. DeFrance revealed that the existing rates for DID and RCF

include functions that are not necessary for number portability. For example, Mr. DeFrance acknowledged that the price of DID includes a private branch exchange (PBX) charge of \$10.71. Mr. DeFrance agreed that, because a PBX trunk is an outbound trunk, it is not needed to provide portability, which is an inbound service.

The Commission therefore finds that the incremental costs developed by MCI are appropriate for the pricing of DID and RCF on a transitional basis. Specifically, those rates are \$2.20 per line per month for DID and \$1.14 per line per month for RCF. Again, contrary to its contention, Ameritech Michigan had the opportunity to present options for the pricing of number portability options, but it chose not to do so. Consequently, Ameritech Michigan's criticism regarding the development of the appropriate pricing lacks merit.

The Commission also rejects Ameritech Michigan's argument that the Commission has no authority to modify the prices for RCF because it is an unregulated service pursuant to the December 22, 1992 order in Case No. U-10064. Ameritech Michigan ignores the fact that, in the November 23, 1994 order in this case, the Commission noted that, in Case No. U-10064, the RCF service at issue was an existing custom calling feature provided to end-users. In contrast, in this case, City Signal has proposed to purchase RCF (and DID) from Ameritech Michigan to effectuate number portability, which is an interconnection issue. As such, it is a regulated service and the Commission may set the price.

Turning to MCI's proposal that the costs for DID and RCF should be recovered through a surcharge on telephone customers, the Commission finds that it should be rejected. The Commission is not convinced that all customers should be assessed such a surcharge during the transitional period, or that competitive pressure will necessarily force new entrants to absorb the surcharge rather than pass it on to customers.

The Commission also is not persuaded that, until true number portability is implemented, the compensation threshold should be increased to plus or minus 50%. The Commission has already rejected that proposal earlier in this order.

Finally, the Commission finds that the ALJ properly concluded that there should be a limit on the access charges Ameritech Michigan assesses in those instances in which DID and RCF will be used. No evidence was presented to support Ameritech Michigan's assertion that it continues to incur all of the same access costs that it would incur in terminating a call to its own customers. As AT&T so aptly points out, such a scenario intuitively seems impossible given the fact that the new carrier will provide both the end-office switching function that routes the call to its final destination and the end-user loop itself.

Directory Listings

Section 305(1)(i) of Act 179 requires basic local exchange providers to provide directory listing information to all persons requesting that information, including affiliates, without unreasonable discrimination. Section 309(1) of Act 179 requires basic local exchange providers to provide their customers with an annual printed directory. Relying on those provisions, City Signal asserted that the need for common access to a data base of local telephone numbers is an interconnection issue.

City Signal took the position that there is a public need that all numbers within a given community of interest, such as the Grand Rapids District Exchange, be available in a common, centrally maintained data base. City Signal therefore proposed that each carrier be required to submit its list of customers to the data base administrator. Each local exchange provider could then access from that list the numbers needed to provide directory assistance and a complete telephone directory for distribution to its subscribers. In the future, City Signal